



August 15, 2001

Mr. Miles K. Risley  
Senior Assistant City Attorney  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR2001-3594

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 150731.

The City of Victoria (the "city") received a written request for police reports pertaining to allegations of family violence as well as other police reports pertaining to assaults involving two named individuals. You have submitted to this office as responsive to the request the records related to three offenses.<sup>1</sup> You state that the city has released to the requestor the "General Offense Report" and the "Prosecutor's Charge Report" pertaining to the alleged family violence, but contend that the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We will discuss each of the submitted offense reports in turn.

You contend that Offense Report #9205932 is excepted from disclosure in its entirety pursuant to section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Offense Report #9205932 consists of records pertaining to the alleged sexual assault of a child. Section 261.201(a) of the Family Code provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for

---

<sup>1</sup>You also submitted to this office a page from Offense Report #689348, which appears to be non-responsive to the request. Accordingly, we do not address whether this document is subject to required public disclosure.

purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

After reviewing Offense Report #9205932, we agree that this report comes within the scope of section 261.201 of the Family Code. You have not indicated that the city has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, Offense Report #9205932 must be withheld in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

You also contend that Offense Report #689940 is excepted from public disclosure pursuant to section 552.101 of the Government Code. Offense Report #689940 pertains to an offense allegedly committed by juveniles in February, 1992. Prior to its repeal by the Seventy-fourth Legislature, section 51.14(d) of the Family Code provided as follows:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

Despite the repeal of section 51.14(d), law-enforcement records pertaining to juvenile conduct that occurred prior to the effective date of the repeal continue to be confidential

under that section.<sup>2</sup> Because Offense Report #689940 pertains to juvenile conduct that occurred prior to January 1, 1996, we conclude that this offense report is governed by section 51.14(d) of the Family Code and that the city must withhold this report in its entirety. *See also* Open Records Decision No. 181 (1977).

Finally, you contend that most of Offense Report #9905843, concerning a report of family violence, is excepted from public disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a)(1) excepts from public disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” You state that an investigation stemming from the family violence report is currently pending “for possible presentation to the Victoria County District Attorney or City Attorney for prosecution.” Based on these representations, we conclude that you have established the applicability of section 552.108(a)(1) to the information at issue. The city therefore may withhold most of the information contained in Offense Report #9905843 pursuant to section 552.108(a)(1) of the Government Code.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Because you have raised no other applicable exception to disclosure, the department must release these types of information in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

In summary, the city must withhold Offense Report #9205932 and Offense Report #689940 in their entirety pursuant to sections 261.201 and 51.14(d) of the Family Code, respectively, in conjunction with section 552.101 of the Government Code. The city is authorized to withhold the contents of Offense Report #9905843 under section 552.108(a)(1) of the Government Code, except for all “basic information,” which must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days.

---

<sup>2</sup>*See* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 106, 1995 Tex. Gen. Laws 2591 (Vernon).

*Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/RWP/seg

Ref: ID# 150731

Enc. Submitted documents

c: Ms. Yvonne Felan Salinas  
P.O. Box 192  
Yorktown, Texas 78764  
(w/o enclosures)